

REMARKS

The Office Action mailed November 2, 2005, has been carefully considered.
Reconsideration in view of the following remarks is respectfully requested.

Double Patenting Rejection(s)

Claims 1-7 of the instant application were indicated as conflicting with claims 1-7 of Application 10/765,562. Claims 1-7 of Application 10/765,562 will be canceled, obviating the double-patenting rejection.

Rejection(s) Under 35 U.S.C. § 102(b)

Claims 1-4 and 7 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Wan (U.S. pat. no. 6,044,069).

Claims 1-4 and 7 have been amended, with claim 1, taken as an exemplary claim, reciting

a first circuit for determining an interframe space, and, before expiry of said interframe space, alerting the wireless devices that the time constant digital data is to be sent, said alerting inhibiting transmission of data from the wireless devices in said zone

This is different from Wan, which, being directed to a cellular network that does not have access points or wireless devices interacting with the access points in the manner of the invention, fails to disclose transmission of alerts before expiry of interframe spaces, the alerts “inhibiting transmission of data from the wireless devices” in a zone associated with the access points.

It will be appreciated that, according to the M.P.E.P., a claim is anticipated under 35 U.S.C. § 102 only if each and every claim element is found, either expressly or inherently

described, in a single prior art reference.¹ The aforementioned reasons clearly indicate the contrary, and withdrawal of the 35 U.S.C. § 102 rejection based on Wan is respectfully urged.

Rejection(s) Under 35 U.S.C. § 103(a)

Claims 5 and 6 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Wan in view of Joshi et al. (U.S. pat. no. 6,006,017).

Joshi et al. fail to overcome the shortcomings of Wan discussed above. Specifically, like Wan, Joshi et al. do not disclose or suggest transmission of alerts before expiry of interframe spaces, the alerts “inhibiting transmission of data from the wireless devices” in a zone associated with the access points. Joshi et al. is cited, according to the Office Action, merely for its disclosure of sending an acknowledgement in response to receiving data. Therefore the combination of Joshi et al. and Wan, even if properly motivated, would not rise to the level of a proper *prima facie* case of unpatentability, under 35 U.S.C. § 103(a), of claims 5 and 6. According to the Manual of Patent Examining Procedure (M.P.E.P.),

To establish a *prima facie* case of obviousness, three basic criteria must be met. First there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in the applicant's disclosure.²

Accordingly, the withdrawal of the rejection of claims 5 and 6 based on Joshi et al. and Wan is respectfully urged.

¹ Manual of Patent Examining Procedure (MPEP) § 2131. See also *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Conclusion


In view of the preceding discussion, applicant respectfully urges that the claims of the present application define patentable subject matter and should be passed to allowance.

If the Examiner believes that a telephone call would help advance prosecution of the present invention, the Examiner is kindly invited to call the undersigned attorney at the number below.

Please charge any additional required fees, including fees for any extensions of time necessary to render timely the filing of the instant Amendment and/or Reply to Office Action, for which applicant hereby respectfully petitions, or credit any overpayment not otherwise credited, to our deposit account no. 50-1698.

Respectfully submitted,
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Dated: 2/2/06


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² M.P.E.P § 2143.